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## PRINCIPAL PRICING MEDIATION

### Defendant Pat Windham

You recently retired as principal clarinetist in the Metropolis Philharmonic Orchestra. Your spouse arranged a retirement party for you in Majestic Mansion, a lovely historic but privately owned building, inviting extended family and friends. Unfortunately, some of your nephews became quite raucous at the party, drank too much, and caused some property damage. The costliest was the destruction of the room's center chandelier, which shattered into pieces when one of the young hooligans decided to swing from one table to another hanging from the chandelier. The price tag for the chandelier was \$20,000 and the rest of the damage claimed made the total \$40,000.

While you recognize that your nephews were out of control, you think the Majestic Mansion and its caterers (under subcontract) were partly to blame. After all, they continued to serve alcohol. In any event, they could have stopped the youths; they failed to maintain order in the house. Majestic Mansion blames you, as having assumed liability for your guests when you contracted for the party. The Mansion was also irresponsible if it wasn't insured.

While you haven't made any offer to Majestic Mansion, you would pay \$5,000 or 6,000 but that's it! You think a judge or jury would take your side, as you couldn't control what happened. Still, at the suggestion of the court clerk's office, you agreed to attempt to resolve your dispute in mediation.

Unfortunately, you do not have \$40,000 in the bank (nor do your nephews). While you have some modest retirement savings, more than half of that has been lost in unwise recent stock market losses. You cannot withdraw the meager amount left without penalty. To make matters worse, you had tried to make some retirement money by investing with a symphony friend in an old factory property (less than half a block from the Mansion), with lovely, exposed brick walls. You financed some renovations to office space for part of the property but most of it remains vacant. The ground floor and basement space are entirely open and unfinished. You and your partner can no longer afford to pay to finish work there, so it looks like your retirement time will be taken up with drywalling and painting. While you are reasonably handy, you do NOT enjoy this work. You'd much rather be playing your clarinet, and your partner would rather play his flute.

Right now, your bank account has less than \$25,000.00 in it and the bank that financed your ill-fated commercial real estate venture would claim a right to that (on your personal loan guarantee) if you stop paying the building mortgage. Though you will draw a pension from your many years with the orchestra, it will be almost impossible to pay the commercial mortgage and eat, unless you can bring in some renters or some income or both. You can't even think of selling the property, as is no longer worth what you paid for it.

Prepare to try to negotiate a resolution in the upcoming mediation. You haven't yet decided whether to be represented by an attorney before that. If so, you would retain the son or daughter of close friends; both recently graduated from law school and have indicated their

willingness to represent you either without charge or at extremely reduced rates. You suspect if the mediation is not successful, Magnus may file suit against you, and perhaps against your nephews too.